

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the 8th day of October, two thousand and four.

PRESENT:

HON. JON O. NEWMAN,
HON. ROGER J. MINER,
HON. ROBERT A. KATZMANN,
Circuit Judges.

EARL STRONG,

Plaintiff-Appellant,

TARIKA STRONG,

Plaintiff-Counter-Defendant,

-v.-

SUMMARY ORDER
No. 03-7559-cv

NANCY STAUB, DIANE MALLAY, MARIA
MONTALVO, FREDDY WILKERSON, ROBERT
WILKERSON, Sr., JULIA WILKERSON, NASSAU
COUNTY, DENNIS DILLON,

Defendants-Appellees.

SUBMITTED FOR APPELLANT:

Earl Strong, *pro se*, East Northport, NY

SUBMITTED FOR APPELLEES:

Lorna B. Goodman, County Attorney, County of Nassau, Mineola, NY (David B. Goldin, Deputy County Attorney, *on the brief*), for Nassau County and Dennis Dillon

Diane Mallay, *pro se*, South Hempstead, NY

Maria Montalvo, *pro se*, South Hempstead, NY

Michael Salgo, Tunstead, Schechter & Czik LLP, Jericho, NY

Freddy Wilkerson, Robert Wilkerson, Sr., and Julia Wilkerson, *pro se*, South Hempstead, NY

Appeal from the United States District Court for the Eastern District of New York (Wall, *M.J.*, Hurley, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgment of the District Court is **AFFIRMED**.

Earl Strong appeals the district court's dismissal of his complaint pursuant to Fed. R. Civ. P. 37 for failure to comply with court orders and discovery requests, and the district court's denial of Strong's motion for summary judgment as moot. The parties' familiarity with the facts is assumed.

We review an appeal from the district court's dismissal pursuant to Fed. R. Civ. P. 37 for abuse of discretion. *See Valentine v. Museum of Modern Art*, 29 F.3d 47, 49 (2d Cir. 1994). The district court's findings of fact underlying such a sanction are accepted as true, unless clearly erroneous. *See Thomas E. Hoar, Inc. v. Sara Lee Corp.*, 900 F.2d 522, 525 (2d Cir. 1990).

The district court properly found that Strong's complaint should be dismissed for failure to comply with court orders. An independent review of the record and relevant case law reveals

no errors in the district court's decision, and that Strong's arguments on appeal are without merit. Strong openly and repeatedly flouted the magistrate judge's orders after being warned numerous times that doing so would result in a sanction of dismissal; nevertheless, he continued to challenge the court's authority by refusing to appear for depositions, refusing to cooperate in unsealing documents, and refusing to comply with discovery orders, going so far as to affront the dignity of the court by accusing it of racism and favoritism without a shred of evidence. The district court's order is **AFFIRMED** in all respects.

The dismissal with prejudice rendered Strong's summary judgment motion moot, and therefore, there is no need to discuss it here.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: _____